

EPCRA Requirements

Reporting Year 2014

EPCRA

Emergency Planning and Community
Right-to-Know Act

Federal Law – 1986

Delaware Law – 1991

SERC and LEPCs

- EPCRA established a network for planning
- Required each state to establish a State Emergency Response Commission (SERC)
- SERCs then establish emergency planning districts and appoint Local Emergency Planning Committees (LEPCs)
- Promote public involvement in managing chemical risks in the community

Requirements for Facilities

- Section 302/303 – Emergency Planning Notification
- Section 304 – Emergency Release Notification
- Section 311 - MSDS List and updates
- Section 312 – Annual Hazardous Chemical Inventory (Tier II) Reporting
- Section 313 – Toxics Release Inventory Reporting

Section 302/303 – Emergency Planning and Notification

- Facilities with Extremely Hazardous Substances (EHSs) above Threshold Planning Quantities (TPQs)
- Provide initial notification to LEPC & Delaware EPCRA Reporting Program
- Identify Facility Emergency Coordinator
- Provide info for planning and notice of changes
- Exemptions for 311/312 do not apply

Section 304 – Emergency Release Notification

- Fixed facilities and transporters
- List of covered substances and reportable quantities (RQs)
- Immediate initial notification (15 minutes) to the SERC/DNREC at 1-800-662-8802, to the National Response Center at 1-800-424-8802, and to the LEPC at 1-866-274-0884
- Written follow-up report
- Delaware Regulation 1203

Section 304 and DE Regulation 1203 Requirements

- **For more information:**

Mark Dolan (302)323-4542

[http://www.dnrec.delaware.gov/SERC/Services/Pages/
EmergencyReleaseNotification.aspx](http://www.dnrec.delaware.gov/SERC/Services/Pages/EmergencyReleaseNotification.aspx)

Section 312 (Tier II) Covered Facilities

- The reporting requirements apply to any facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) for a hazardous chemical present at the facility in accordance with Federal OSHA or Delaware Worker Right-to-Know.

Facility means all buildings, equipment, structures and other stationary items that are located on a single site or on contiguous or adjacent sites *and* which are owned or operated by the same person.

Covered Chemicals

- **Hazardous Chemicals**

- There is no specific list of these chemicals.
- Defined by OSHA regulations to mean any chemical (element, chemical compound or mixture of elements and/or compounds) which is a physical hazard or a health hazard.

- **Extremely Hazardous Substances (EHSs)** –

- A specific list of substances designated by the U.S. EPA
- <http://www.dnrec.delaware.gov/SERC/Services/Pages/HazardousChemicalInventoryReporting.aspx>

Thresholds

A substance may be reportable if present at the facility at any time during the calendar year at levels that equal or exceed the following thresholds:

- Hazardous Chemical
 - 55 gallons or 500 lbs, whichever is lower
- Extremely Hazardous Substances (EHSs)
 - 55 gallons, 500 pounds or the Threshold Planning Quantity (TPQ), whichever is lower.
- Substances used solely for building heating purposes (at the site)
 - 10,000 pounds

Converting gallons to pounds

$$\underline{\# \text{ (gal)} \times \text{Density (lb/gal)} = \# \text{ lbs}}$$

- Density can be found on the MSDS
- IF the density is not known, look for the specific gravity or relative density on the MSDS.

Specific gravity or relative density $\times 8.34$
(lb/gal) [Density of water] = Density for the
substance

OSHA Regulations Provide for the Following Exemptions

(as stated in 29 CFR Section 1910.1200)

- (i) Hazardous Waste when subject to Hazardous Waste regulations
- (ii) Hazardous substances that are subject to remedial or removal action
- (iii) Tobacco or tobacco products;
- (iv) Wood or wood products
- (v) “Articles”
- (vi) Food or alcoholic beverages
- (vii) Drugs defined by the Federal Food and Drug Cosmetic Act
- (viii) Cosmetics
- (ix) Consumer products covered by the Consumer Product Safety Act
- (x) Nuisance particulates
- (xi) Ionizing and nonionizing radiation
- (xii) Biological hazards

Exact wording can be found in our instructions and on our Web site

Federal and State EPCRA reporting regulations provide exemptions for the following substances:

- (a) Any food, food additive, color additive, drug or cosmetic regulated by the Food and Drug Administration;
- (b) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use;
- (c) Any substance to the extent it is used:
 - (1) For personal, family or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;
 - (2) In a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual;
 - (3) In routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

Additional Exemptions

Chemicals or substances in transportation or being stored incident to such transportation, including the transportation and distribution of natural gas, are not subject to the inventory reporting requirements.

** Since many of these exemptions can be easily misinterpreted, please call the Delaware EPCRA Reporting Program at (302) 739-9405 if you have any questions concerning applicability of these exemptions to chemicals at your facility.*

Threshold Determination for EHSs

Aggregation of EHSs – To determine if the threshold has been met for an EHS, the amount of the EHS in both pure form and in mixtures at the facility must be aggregated. If the threshold for the EHS is met, the EHS and/or the mixtures containing EHS must be reported.

Mixture Determination for EHSs

- If an EHS is present in a mixture in a particular container, determine the quantity (lbs) of the EHS in that container.
 - If the concentration of an EHS is $< 1\%$ (or 0.1% for a carcinogen) in the mixture, you don't have to count that EHS.
- You **MUST** aggregate the amounts of EHS in both the pure form and the mixture to determine if the TPQ or the reporting threshold (*whichever is lower*) is present.
- If the threshold for the EHS is met, the EHS and/or the mixtures containing EHS must be reported.

Mixture Determination for Hazardous Chemicals

- Aggregation of Non-EHS hazardous chemicals present in mixtures is not required.
- Substance should be reported on Tier II in the same manner in which the MSDS is maintained on site.(eg. If you have batteries on site, if the MSDS is for Lead Acid Battery, report the chemical as Lead Acid Battery. Do not report 2 separate chemicals: Lead & Sulfuric Acid)
- Keep in mind the purpose of reporting. Information is distributed to emergency planning and response organizations.

Summary – Determining if a chemical is reportable

1. Is the substance a hazardous chemical or EHS for which you must have or prepare an MSDS in accordance with Federal OSHA or Delaware Worker Right-to-Know?
 - If yes, continue
 - If no, it is not a reportable substance
2. Was the applicable threshold met or exceeded?
 - If yes, continue
 - If no, it is not a reportable substance
3. Do any of the exemptions apply?
 - If yes, the substance is NOT reportable
 - If no, substance MUST be reported under §312

State of Delaware Tier II Reporting Fees

- Developed in cooperation with State Emergency Response Commission (SERC)
- Fees are appropriated to SERC for allocation primarily to LEPCs and data collection and management
- Legislation passed in 2002 allows support for portable decontamination trailers in each county

Reporting Fees

- Fees are as follows:
 - \$40 per hazardous chemical
 - \$80 per extremely hazardous substance
 - Fees for mixtures depend on concentration of EHSs:
 - Less than 10% by weight EHS = \$40
 - Equal to or greater than 10% EHS = \$80

\$0 per voluntary chemicals (those which do not meet the reporting threshold)

Reporting Fees Cont.

- Cap of \$5000 per facility per year
- Facilities exempt from fees:
 - Federal, state, county, and local government facilities
 - Non-profit organizations
- Substances exempt from fees:
 - Motor Vehicle Fuels are exempt when offered for retail sale at the facility (Ex. Gasoline & Diesel)

Site Plot Plans

- **Required** when reporting chemicals
- Submit on a plain sheet of 8.5x11-inch paper or upload the plan into Tier II Manager
- **Must be clear and easy to read**
- Label with facility name and address
- **Include a north direction arrow**
- Draw to scale OR use dimensions that can be used as a reference
- **Sketch MUST include all structures; outside storage areas; and any obstacles that could be encountered by emergency personnel**

EPA Additions to 312 (Tier II) Data Elements effective 1/1/2014

- Fact Sheet on Delaware EPCRA
“What’s New” web page:
 - <http://www.dnrec.delaware.gov/SERC/Pages/What'sNew.aspx>
- EPA Web site:
 - <http://www2.epa.gov/epcra-tier-i-and-tier-ii-reporting/epcra-tier-iii-amendments-and-guidance>

How §311 & §312 are similar

- Covered chemicals – identical
- Covered facilities – identical
- Thresholds – identical
- Exemptions – identical
- Both can be completed using Tier II Manager™

How §311 & §312 are Different

- Section 311
 - Initial submission and updates as needed
 - MSDSs or List (List is preferred)
 - No fees
- Section 312
 - Annually by March 1st covering the previous calendar year
 - Tier II forms
 - Reporting fees

Section 311 – MSDS List Reporting

- Must submit Material Safety Data Sheets (MSDSs) or list of hazardous chemicals on site above threshold quantities
- **List is preferred**
- Initial submission required
- **Updates within 3 months when non-reported substances first exceed thresholds on-site**

Section 311 cont.

- EPA has provided guidance that an annual Tier II report can serve as an initial list for any facility that failed to submit an initial list. The real substance of the Section 311 requirement is that it provides for updates (within 3 months) to the chemical inventory data for a facility in between the annual Section 312 reports.

What to include when submitting a Section 311 Report:

- List the name of the Hazardous Chemical(s) and any physical or health hazards associated with that chemical
 - Updates to lists need only include info for newly reportable substance(s)
- Report using TIER II MANAGER TM

Section 313 – Toxic Release Inventory (TRI) Reporting

- **Specific facilities – based on # of employees and industrial classification codes**
- **List of TRI chemicals**
- **Threshold quantities – manufacture or process 25,000 lbs/yr or otherwise use 10,000 lbs/yr**
- **PBT Substances – significantly lower thresholds**
- **Forms due July 1 for previous calendar year**
- **Annual report**
- **For more information contact:**

Brian Lutes at 302-739-9405

DE EPCRA Chemicals and Reporting Thresholds

Section	Chemicals Covered	Thresholds
302/303	EHS List by EPA (over 360 chemicals)	Threshold Planning Quantity (TPQ)
304 (DE Reg 1203)	>1,000 substances	Reportable quantity, released in a 24-hr period
311	Any substance that has a physical or health hazard	EHS: 55 gallons, 500 lbs or the TPQ, whichever is lower; Hazardous chemical: 55 gallons or 500 lbs on site at any one time; Heating Fuel: 10,000 lb when used on site
312	Same as 311	Same as 311
313	650 + toxic chemicals and categories	Manufactured or processed: 25,000 lbs per year; Otherwise Used: 10,000 lbs a year; *** Certain persistent bioaccumulative toxics have lower thresholds

Reporting Schedules

Section	Due Dates	To Whom
302/303	One time notification AND Updates as necessary: within 60 days of EHS exceeding TPQ	DNREC & LEPC (<u>TIER II MANAGER™</u>)
304	Each time a release above a reportable quantity occurs	DNREC, NRC & LEPC
311	Initial Submission; And updates within 3 months for chemicals first exceeding threshold	DNREC (<u>TIER II MANAGER™</u>)
312	Annually by March 1	DNREC <u>TIER II MANAGER™</u>
313	Annually by July 1 (*EPA has implemented an option where facilities can report on-line to EPA only and EPA sends data copy to the State)	EPA & DNREC**

Contacts

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Call or visit the website:

www.dnrec.delaware.gov/SERC

*Contact info for LEPCs on Web site